



FILED
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Decision: D.11-05-019

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Participation in Order Instituting Rulemaking for the Purpose of Reviewing and Potentially Amending General Order 156 and to Consider Other Measures to Promote Economic Efficiencies of an Expanded Supplier Base and to Examine the Composition of the Utilities' Workforce	R. 09-07-027
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CLAIM AND DECISION ON REQUEST FOR INTERVENOR COMPENSATION

Claimant: Black Economic Council, the Latino Business Chamber of Greater LA and National Asian American Coalition filing as "Joint Parties."	For contribution to: D.11-05-019
Claimed (\$): \$603,001	Awarded (\$):
Assigned Commissioner: Michael Peevey	Assigned ALJ: Melanie Darling
I hereby certify that the information I have set forth in Parts I, II, and III of this Claim is true to my best knowledge, information and belief. I further certify that, in conformance with the Rules of Practice and Procedure, this Claim has been served this day upon all required persons (as set forth in the Certificate of Service attached as Attachment 1).	
Signature: /Robert Gnaizda/	
Date: 7/1/11	Printed Name: Robert Gnaizda

PART I: PROCEDURAL ISSUES (to be completed by Claimant except where indicated)

A. Brief Description of Decision: Comprehensive twenty year review of GO 156 and prescriptions for greater diversity for women, minority and disabled veteran-owned businesses.

B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (§ 1804(a)):		

1. Date of Prehearing Conference:	19, May 2010	
2. Other Specified Date for NOI:	None	
3. Date NOI Filed:	26 April, 2010 (BEC) 29 April 2010 (NAAC) 30 April, 2010 (LBC)	
4. Was the notice of intent timely filed?		
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	R. 09-07-027	
6. Date of ALJ ruling:	6 July, 2010	
7. Based on another CPUC determination (specify):	None	
8. Has the claimant demonstrated customer or customer-related status?		
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	R. 09-07-027	
10. Date of ALJ ruling:	6 July, 2010	
11. Based on another CPUC determination (specify):	None	
12. Has the claimant demonstrated significant financial hardship?		
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision	D.11-05-019	
14. Date of Issuance of Final Decision:	5 May, 2011	
15. File date of compensation request:	1 July, 2011	
16. Was the request for compensation timely?		

C. Additional Comments on Part I (use line reference # as appropriate):

#	Claimant	CPUC	Comment
			Initial intervention was by the Black Voice, amended to be the Black Economic Council. Subsequent to the BEC intervention, the National Asian American Coalition (formerly Mabuhay Alliance) and the Latino Business Chamber of Greater LA sought to intervene. Thereafter, the three separate nonprofit minority business organizations representing the

			<p>three major minority business communities (Black, Latino and Asian American) joined together had common counsel and were referred thereafter as the Joint Parties. This occurred to ensure, as requested by the ALJ, coordinated efforts for common purposes and to avoid or minimize duplication. Further, the Joint Parties where possible followed the ALJ's request to coordinate with all other interested minority business communities, including the California Hispanic Chamber of Commerce and California Asian Pacific Chamber of Commerce. Because more than half of disabled veterans in California are minority veterans and all three groups had specific expertise in this area, all three represented not just minority veterans but all disabled veterans.</p>

PART II: SUBSTANTIAL CONTRIBUTION (to be completed by Claimant except where indicated)

A. In the fields below, describe in a concise manner Claimant's contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059) (For each contribution, support with specific reference to final or record.)

Contribution	Citation to Decision or Record	Showing Accepted by CPUC
1. Meeting by the BEC with President Request by the BEC in July <u>2009</u> seeking an OIR on diversity be launched and provided evidence and support for such including legal analysis under Prop 209.	§2 P. 5 §5 P. 24	
2. Expanded technical assistance and capacity building	§ 4 PP.12-13 §4.6 P.23	
3. Greater emphasis on small, minority women and disabled veteran-owned businesses.	§ 3.2 PP.10-11 §5.1 P.26 §5.3 P. 37 §4.3 PP.16-17	
4. Need for additional workshops regarding technical assistance and capacity building, including special focus in professional services, financial green energy and electric procurement	§ 3.2 PP. 10-11	
5. Emphasis on underutilized professional services, including legal,	§§5.4.1-5.4.3. PP41-43.	

financial and media.	§4.6 P.18	
6. Expanded Voluntary Goals for minorities, women including women of color and disabled veterans	§ 4.3 PP.16-17 §5.1 P. 25	
7. Coordinating substantial business expertise in an open-ended workshop environment	§ 4.6 PP. 23-24	
8. Unbundling of large contracts,	§ 5.6.1 P. 48	
9. Focus on small businesses and contracts of one million dollars or less	§5.6.1 PP. 48-49	
9. Seeking extension of time to ensure final briefs would cover October 2010 en banc proceeding and using it to supplement workshops	§3.3 PP.11-12	
10. Need for more workshops jointly hosted by utilities and CBOs	§5.10.3 PP. 65-66	
11. CBOs working more closely with utilities,	§5.10.3 PP 65-66 §5.6.2 PP.50-51	
12. Mentoring of CBOs and small businesses	§5.6.2 PP. 50-51	
13. Expansion and expediting of certification process to increase the database.	§5.9 PP. 61-62 §5.8 P.56 §4.3 P. 16	
14. Creating an environment to encourage other large companies not directly subject to GO 156 to want to participate such as cable companies and Silicon Valley companies.	See many of the citations in contributions in 1-13 that encourage corporations not directly subject to GO 156 to participate.	
15. Ensuring, as Commissioner Florio stated at the electric procurement workshop on June 30 th , that diversity is part of the DNA in corporate America.	See tone and substance of OIR decision as a whole and Commissioner Florio's diversity DNA comments at the electric procurement workshop.	

B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

The Black Economic Council was the sole party that secured this OIR as a result of a July '09 meeting with Mike Peevey that was attended by a broad range of Black business and church groups by the BEC. The National Asian American Coalition and the Latino Business Chamber of Greater LA representing the other two major minority constituencies subsequently filed and determined to use common counsel and where possible common

resources to avoid duplication. All three groups reached out to other parties to coordinate efforts including Greenlining, which focused mainly on policy, and the California Hispanic Chamber of Commerce and California Asian Pacific Chamber of Commerce.

	Claimant	CPUC Verified
a. Was DRA a party to the proceeding? (Y/N)	No	
b. Were there other parties to the proceeding? (Y/N)	Yes	
<p>c. <i>If so, provide name of other parties:</i></p> <p>Primary other parties were Greenlining Institute, California Hispanic Chambers of Commerce, California Asian Pacific Chambers of Commerce, American Indian Chambers of Commerce, PG&E, AT&T, Southern California Edison, SDG&E, Gray, Greer, Shelby & Vaughn, LLC, Pacificorp, Park Water Company, CTIA, Coalition of California Utility Employees, California Water Association, Disability Rights Advocate, Disabled Veterans Business Enterprise Alliance, Verizon, SureWest Telephone, Sierra Pacific Power Company, Sprint Nextel</p>		
<p>d. <i>Describe how you coordinated with DRA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</i></p> <p>The Joint Parties took the lead in many aspects including being the <u>sole initiator</u> in the successful effort for an OIR. This included being the primary party to: a) set forth specific additional goals for the Black, Latino and Asian American business communities and overall women and disabled veteran goals; b) was the proposed very substantial broad based technical assistance and capacity building to ensure that companies could both meet their minimum GO 156 goals and to achieve aspirational goals referred to in the decision. The Joint Parties also took the lead regarding suggestions in the workshop environment that the proceedings: a) develop mechanisms for enhancing a focus on small minority owned businesses, particularly in California in the context of their potential to lower rates and produce jobs in California, b) a special focus on underutilization of women of color, c) underutilization of minority disabled veterans, d) underutilization of professional services with particular emphasis on media, advertising, consulting, legal and financial institutions and e) green energy efforts.</p> <p>By the very nature of a workshop environment, as contrasted to an adversarial environment, different parties made different contributions, based in large part upon their professional experience and expertise.</p> <p>Except for the combined efforts of the California Hispanic Chambers/Asian Pacific Chambers and the American Indian Chamber of Commerce, the Joint Parties were the only minority parties who continuously participated that had major direct small business minority experience, input and expertise. Throughout the proceeding, this expertise was utilized to maximize the effectiveness of the workshop environment.</p>		

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C. Additional Comments on Part II (use line reference # or letter as appropriate):

#	Claimant	CPUC	Comment

PART III: REASONABLENESS OF REQUESTED COMPENSATION (to be completed by Claimant except where indicated)

A. General Claim of Reasonableness (§§ 1801 & 1806):

Concise explanation as to how the cost of claimant’s participation bears a reasonable relationship with benefits realized through participation (include references to record, where appropriate)	CPUC Verified
<p>Almost \$15 billion a year in contracts are awarded by the companies covered in this decision. This decision is likely to increase the share of contracts to minority-owned businesses from an average of 20% to as high as 40% of all contracts. Even a one percent differential amounts to \$150 million a year in additional contracts to this cohort. Over a ten year period, this amounts to \$1.5 billion. The attorney and expert fees requested represent far less than one tenth of one percent (00.1%) of this amount. In fact, the intervenor fees will be an even far less a percentage of benefits should, as anticipated, the vast majority of corporations reach 30% goals within five years and virtually all major utilities reach 40% within five years.</p> <p>However, the other benefits could be far greater:</p> <ol style="list-style-type: none"> 1) It is highly likely that through the decision and the supplemental workshops to be scheduled that a greater focus will be on small businesses located in California. This could represent a minimum shifting of the recipients of contracts by 2% or more each year. 2% of \$15 billion is \$300 million a year or \$3 billion over ten years. 2) As the decision points out, a shifting of contracts to more businesses, particularly small businesses, is likely to lower costs and thereby minimize rate increases. Although this is difficult to specifically quantify, consider that according to DRA estimates, Edison’s proposed rate increase will cost the rate payers \$4.6 billion and the combined SoCal Gas and SDG&E increases will cost the rate payers \$4 billion. Assuming very conservatively, that there might be a 2% savings and factoring in PG&E future proposed rate increases, which could be in the same general amounts as Edison and Sempra, \$80 million a year in reduced costs could occur for the rate payers or \$800 million over the next ten years. (Based on 2% of approximately \$4 billion a year in rate increases from the three major utilities). 	

B. Specific Claim:

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Robert Gnaizda, Of Counsel	2009- 2011	678.1	\$535	See attached description "A"	\$362,783.50				
<i>Subtotal:</i>					\$362,783.50	<i>Subtotal:</i>			
EXPERT FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Len Canty, BEC	2009- 2011	187.8	\$350	See attached description "B"	\$67,730				
Faith Bautista, NAAC	2009- 2011	266.8	\$350	See attached description "B"	\$93,380				
Jorge C. Corralejo, LBC	2009- 2011	142.3	\$350	See attached description "B"	\$49,805				
<i>Subtotal:</i>					\$210,915	<i>Subtotal:</i>			
OTHER FEES									
Describe here what OTHER HOURLY FEES you are claiming (paralegal, travel, etc.):									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Dyana Polk, Paralegal	2009- 2011	83.5	\$80	See description attached "C"	\$6,680				
Aaron J. Lewis, Legal Intern	2010- 2011	220.25	\$90	See attached description "C"	\$19,822.50				
Travel, Misc		0	0	See attached description "C"					
<i>Subtotal:</i>					\$26,502.50	<i>Subtotal:</i>			
INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Dyana Polk, Paralegal	2011	35	\$80	See attached description "C"	\$2800				
<i>Subtotal:</i>					\$2,800	<i>Subtotal:</i>			
COSTS									

#	Item	Detail	Amount	Amount
		See attached description "D"		
<i>Subtotal:</i>				<i>Subtotal:</i>
TOTAL REQUEST \$:			\$603,001	TOTAL AWARD \$:
<p>When entering items, type over bracketed text; add additional rows as necessary. *If hourly rate based on CPUC decision, provide decision number; otherwise, attach rationale. **Reasonable claim preparation time typically compensated at ½ of preparer's normal hourly rate.</p>				

C. Attachments or Comments Documenting Specific Claim (Claimant completes; attachments not attached to final Decision):

A. Gnaizda

Hourly rate is at the maximum for Mr. Gnaizda, \$535. This is a rate he has been awarded in many other CPUC cases. Mr. Gnaizda has practiced before the CPUC for 40 years and has been a member of the California State Bar for 49 years. His expertise in the area has helped substantially reduce the number of hours that otherwise might have been necessary to effect change in a workshop environment.

Gnaizda's time is approximately that estimated in the NOI despite the continuation of the proceeding beyond the anticipated July workshops (including comments filed after the en banc proceeding in October 2010) and the lack of effective cooperation and data gathering and solution solving with the utilities in a workshop environment. That is, the aggregate time by the original intervenor BEC was 425 hours and the additional time estimated in an NOI by the Latino Business Chamber was 90 and by NAAC at 140 hours or a total of 655 hours estimated, or very close to the intervenor claim of 678 hours.

B. Experts

Many experts assisted the BEC, LBC and NAAC in their preparation at workshops and provided invaluable information for the workshops and the subsequent comments. However, no time is claimed for any experts except the time expended by the lead expert at each of the three organizations. Each lead expert is the head of their organization and has 25 or more years of experience on small business issues.

Faith Bautista, Chair of the NAAC owned a successful small business for over 20 years; (1986-2006) has been an active member of many Asian American business associations for more than 20 years and is considered by many utilities and telecom companies as a lead expert for Asian American small businesses. She has run many

technical assistance and capacity building seminars and programs with Fortune 500 corporations and is a former member of the Sempra consumer advisory board and a former member of the Thrift Supervision Minority Financial Institution advisory board. She also provides small business information for the largest Filipino American TV channel and is presently Chair of the CPUC's marketing and strategy committee for LIOB and was honored by the CPUC at its 100th anniversary celebration. Therefore, her hourly rate is the maximum allowed of \$350 per hour.

Jorge Corralejo, the Chair and Executive Director of the Latino Business Chamber of Greater LA, has owned a business for more than 30 years and has been active with various Latino business chambers for almost 30 years. In 2010 alone, his organization held 32 separate technical assistance and/or capacity building workshops in Southern California, many of which were sponsored by and participated in by the utilities and telecom companies involved herein. The LBC is also the largest such chamber in California and serves directly or indirectly 500,000 Latino owned businesses. Many members of the Latino Business Chamber such as the Chair of Promerica Bank, former Secretary of Business Transportation and Housing, Maria Contreras-Sweet and Gil Vasquez, the Chairman of Vasquez Accounting, a major minority owned CPA firm and Jonathan Sanchez, owner of eleven Latino newspapers, were among the many Latino experts consulted with by Mr. Corralejo in his efforts in this proceeding. He was also assisted by his two technical assistants Miriam Aguilar and Bob Holguin. Mr. Corralejo was also chosen by Federal Reserve Chairman Ben Benanke and FDIC Chair Sheila Bair to be the chief spokesperson for minority small businesses at their September 2010 DC conference on problems confronting small businesses. Similarly, President Obama and his chief advisor David Axelrod selected Mr. Corralejo to be the sole Latino business leader at a June 2010 conference they held with Latino leaders generally.

Len Canty has a long history of advocacy on behalf of Black small businesses and now as Chair of the BEC runs the most successful Black technical assistance programs in the state of California. These programs are enthusiastically supported by a broad range of affected utilities and financial institutions. His expertise was supplemented by a broad range of his professional staff, some of whom participated at the workshops including Andree Driskoll and Yolanda Lewis.

Mr. Canty is the founder and former CEO of NuCapital Access Group, a private equity venture capital fund founded in 1993. Prior to that, he founded a mortgage brokerage firm in 1984 and has been a founding member and former President of 100 Black Men of the Bay Area and Chairman at the African American Economic Empowerment conference and has lectured at Cal State University, East Bay on African American entrepreneurship.

Therefore, since each expert has more than 20 years of business experience and is one of the premiere small business experts respectively for Latinos, Asian Americans and Blacks, and they sought at no cost to the rate payers additional expertise from other major experts, the compensation rate of \$350 is modest and appropriate.

C. Intervenor Claim Preparation Time

Due to the nature of this proceeding strongly encouraging new CBO participation, the BEC, LBC and NAAC had no prior intervenor experience. Therefore, they required substantial assistance in preparing their intervenor compensation claim. Mr. Gnaizda alone contributed an estimated 45 hours to help coordinate the effort. However, Gnaizda is making no claim for his estimated 45 hours assisting the parties in preparing the intervenor compensation request or his travel time to DC and most of his travel time to LA relating to this proceeding. Similarly, Hastings third year law student Moraine is making no claim for his assistance, Further, Mills College Master in Policy candidate Dyana Polk has reduced her hours claim by 75% and her total claim to just \$2800.

Consistent with or lower than with the NOI and please note the waiving of fees by paralegal Dyana Polk as it relates to intervenor compensation. That is, only Ms. Polk is claiming time and at only one fourth of her time or an effective \$20 an hour. This time is consistent with or lower than filed in the NOI. Please note the waiving of fees of law students Kevin Moraine and Aaron Lewis regarding intervenor compensation as well as the 75% reduction in fees sought by paralegal Dyana Polk.

D. Costs

Experts costs are waived as to all transportation costs including to DC and in the case of BEC and NAAC, Los Angeles and in the case of LBC, San Francisco.

All travel costs waived, including two trips to DC on technical assistance and three LA trips by the BEC and NAAC and the San Francisco trips by LBC as well as all trips by their counsel. Estimated waived amount, including airfares and hotels is a minimum of \$12,000.

All other costs are waived since many cannot be readily itemized but are estimated to exceed \$4000.

E. Additional Comments on Time

The bulk of the Joint Parties' time related directly or indirectly to the scoping memos aspirational goals and technical assistance/capacity building. However, this included special focuses. Within the issue of aspirational goals were issues set forth in Part 2 (substantial contribution) such as greater emphasis on small, (under one million dollars in revenue) minority, women and disabled veterans owned businesses. It should be noted, however, that the Joint Parties were the only party to initiate with the California

Public Utilities Commission and its President the launching of this OIR. Efforts to launch this OIR commenced only after the July 2009 meeting with key Black leaders, the BEC, San Francisco African American Chamber of Commerce, the Black Business Association and Allen Temple Baptist Church and counsel for these organizations.

Within the aspirational goals and technical assistance/capacity building are many subsets of contributions referred to in the May 5th decision such as unbundling of contracts, CBOs working more closely with utilities, need for more workshops on technical assistance and capacity building, focus on underutilized professional services and expediting and increasing the certification database.

Due to the unique nature of the OIR, (including future workshops set for this summer and/or early fall that emanate from the decision) and the OIR's specific order regarding the importance of the en banc proceeding in October at which the Chairs of the BEC, the NAAC and the LBC will play a major confirmed role as set forth by Commissioners Ferron, Peevey and Sandoval, we are also reserving the right to separately file for additional intervenor compensation relating to the workshops and preparation for the en banc proceeding. Once all the hearings emanating from the OIR are set, we will, if required, file an NOI to supplement the record.

F. Mechanism for Payment to Intervenors

The Joint Parties have agreed to simplify the process for receipt of compensation. One check in the entire amount for all the parties can be made out either to the National Asian American Coalition and/or the three organizations. The NAAC will have its financial officer then issue individual checks to each of the organizations, based upon their approved compensated time. We believe this will be the most efficient method, particularly since there are many utilities that will be involved in the payment process.

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	Attachment A-Timesheets for Gnaizda, Canty, Bautista, Corralejo, Polk, Lewis

D. CPUC Disallowances & Adjustments (CPUC completes):

#	Reason

PART IV: OPPOSITIONS AND COMMENTS

Within 30 days after service of this claim, Commission Staff or any other party may file a response to the claim (see § 1804(c))

(CPUC completes the remainder of this form)

A. Opposition: Did any party oppose the claim (Y/N)?

If so:

Party	Reason for Opposition	CPUC Disposition

B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(c)(6)) (Y/N)?

If not:

Party	Comment	CPUC Disposition

FINDINGS OF FACT

1. Claimant [has/has not] made a substantial contribution to Decision (D.) _____.
2. The claimed fees and costs [, as adjusted herein,] are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The total of reasonable contribution is \$ _____.

CONCLUSION OF LAW

1. The claim, with any adjustment set forth above, [satisfies/fails to satisfy] all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. Claimant is awarded \$ _____.
2. Within 30 days of the effective date of this decision, _____ shall pay claimant the total award. Payment of the award shall include interest at the rate earned on prime, three-month

commercial paper as reported in Federal Reserve Statistical Release H.15, beginning _____, 200__, the 75th day after the filing of claimant's request, and continuing until full payment is made.

3. The comment period for today's decision [is/is not] waived.
4. [This/these] proceeding[s] [is/are] closed.
5. This decision is effective today.

Dated _____, at San Francisco, California.

**Attachment 1:
Certificate of Service by Customer**

I hereby certify that I have this day served a copy of the foregoing **CLAIM AND ORDER ON REQUEST FOR INTERVENOR COMPENSATION** by (check as appropriate):

- hand delivery;
- first-class mail; and/or
- electronic mail

to the following persons appearing on the official Service List:

jespinosa@cabreracapital.com
catherine.mazzeo@swgas.com
emello@sppc.com
gwen@pacbell.net
KHassan@SempraUtilities.com
tracy@adproweb.com
jcorralejo@lbcgla.org
ed.jackson@parkwater.com
BruceH@CadenceLeasing.com
jesus.g.roman@verizon.com
bkelly@swwc.com
gloria.ing@sce.com
tristan.reyesclose@sce.com
KSwitzer@gswater.com
chairman@elitesdvob.org
carl.wood@verizon.net
Faith.Mabuhayalliance@gmail.com
mdjoseph@adamsbroadwell.com
jhawks_cwa@comcast.net
jon.david.tate@att.com
lhj2@pge.com
nelsonya.causby@att.com
stephen.h.kukta@sprint.com
marg@tobiaslo.com
pacasciato@gmail.com
gblack@cwclaw.com
jarmstrong@goodinmacbride.com
jessicamullan@dwt.com
deyoung@caltel.org
anitataffrice@earthlink.net
jeguzmanjr@gmail.com

lencanty@BlackEconomicCouncil.org
mmskelby@ggsvlc.com

pucservice@dralegal.org
rich.dryden@cadvbe.org
jayala@cahcc.com
jcanete@cahcc.com
lgarcia@diepenbrock.com
patfk@sacasiancc.org
ted.puntillo@cdva.ca.gov
michelle.mishoe@pacificorp.com
Adam.Sherr@Qwest.com
dduncan@calwater.com
ghanible@um.att.com
lmb@wblaw.net
mfogelman@friedumspring.com
sach@pge.com
stephaniec@greenlining.org
cswint@brv-llc.com
geri.willis@athesupplierclearinghouse.com
michelle.d.grant@dynegy.com
stclair@willcapmanagement.com
finkelstein@willcap.com
William.Weber@cbeyond.net
bmontgo@nicor.com
vsouthasarn@nvenergy.com
linda.c.stinar@centurylink.com
valerie.ontiveroz@swgas.com
RDAVIS@NVENERGY.COM
mblancarte@lbcgla.org
michael@jwharrislaw.com
bill.winston@slharecapital.com
mail@bbala.org
jrui@adorno.com
ncheatham@cniinc.com
jglover@parkwater.com
leigh@parkwater.com
jacque.lopez@verizon.com
lorraine.kocen@verizon.com
rwnicholson@sgvwater.com
dadelloso@sgvwater.com
tjryan@sgvwater.com
case.admin@sce.com
jadarneylane@gswater.com
jgaron@gswater.com

nancitran@gswater.com
rphoward06@yahoo.com
esther.northrup@cox.com
KMirr@SempraGlobal.com
dhana.joy@amwater.com
farrellytc@earthlink.net
LWrazen@SempraUtilities.com
vicechairman@elitesdvob.org
elaine@mabuhayalliance.org
deborah.tatum@ge.com
markw@corchurch.org
Emma@gswater.com
olivia.para@amwater.com
sarah.leeper@amwater.com
Ingrid@imwis.com
prutland@therutlandgroup.org
anf@att.com
RegRelCPUCcases@pge.com
crmd@pge.com
C4MU@pge.com
ileana.winterhalter@att.com
Kristin.L.Jacobson@sprint.com
mxi9@pge.com
ashm@telepacific.com
chewlett@nossaman.com
ldolqueist@manatt.com
mmattes@nossaman.com
dwtcpucdockets@dwt.com
suzannetoller@dwt.com
janewhang@dwt.com
joshdavidson@dwt.com
aaron.joseph.lewis@gmail.com
cem@newsdata.com
gyoung@thinkfeelknow.com
abyrd@thinkfeelknow.com
RobertGnaizda@gmail.com
regrelcpucases@pge.com
selbytelecom@gmail.com
resources@ressapproach.com
Sean.Beatty@mirant.com
dxphaso@sbcglobal.net
Tracy@Premieresolutionsllc.com
frederickjordan@aol.com
occur@sbcglobal.net
tgamble@brv-llc.com

jalfredsmithjr@yahoo.com
palexander@calwater.com
speinado@calwater.com
dgrandy@caonsitegen.com
soapyone@jps.net
Charlie.Born@ftr.com
dsilverboard@diepenbrock.com
jperez@cudc.biz
stewart.mackenzie@cdva.ca.gov
kmacias@mgocpa.com
cpuc@liberty-energy.com
CNL@cpuc.ca.gov
ddm@cpuc.ca.gov
ph1@cpuc.ca.gov
jdr@cpuc.ca.gov
mke@cpuc.ca.gov
zaf@cpuc.ca.gov
md2@cpuc.ca.gov
mvc@cpuc.ca.gov
mc3@cpuc.ca.gov
mcv@cpuc.ca.gov
rmm@cpuc.ca.gov

Executed this first day of July, 2011, at San Bruno, California.

/Robert Gnaizda/

Robert Gnaizda
1758 El Camino Real
San Bruno, CA 94066